

**MINUTES OF THE JOINT SAN JOSÉ CITY COUNCIL
AND REDEVELOPMENT AGENCY BOARD**

SAN JOSÉ, CALIFORNIA

TUESDAY, APRIL 27, 2004

The Council of the City of San José convened at 4:23 p.m. to hear Item 7.1, 7.2, 7.3, and 7.4 in a Joint Session with the Redevelopment Agency Board in Council Chambers at City Hall.

Present: Council Members - Campos, Chavez, Cortese, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Chirco, Dando, Gregory. (Excused)

JOINT REDEVELOPMENT AGENCY/CITY COUNCIL ITEMS

- 7.1 (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law for the funding of Public Improvements.**
- (b) Approval by the City Council and Redevelopment Agency Board of a Cooperation Agreement providing for City funding and Agency oversight of construction of a traffic signal project at the intersections of Santa Clara Street and 4th, 5th and 6th Streets.**
- (c) Adoption of a resolution by the Agency Board:**
- (1) Approving the addition of \$316,000 in revenue for funds transferred from the City to fund the construction of traffic signals at the intersections of Santa Clara Street and 4th, 5th and 6th Streets, to the FY 2003-2004 Adopted Budget; and,**
 - (2) Approving the addition of \$316,000 to the Adopted FY 3003-2004 Capital Budget, Civic Plaza Streetscape Project line in the Civic Plaza Redevelopment Area; and,**
 - (3) Amending the FY 2003-2004 Agency appropriations resolution.**
- CEQA Resolution No. 68905; PP04-03-071 [CIVIC PLAZA]**

Documents Filed: Memorandum from Redevelopment Agency Interim Director Harry Mavrogenes, and City Manager Del Borgsdorf, dated April 27, 2004, recommending adoption of said resolutions by Council and Agency, and approval of said Cooperation Agreement.

7.1 (Cont'd.)

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, the City Council and Redevelopment Agency Board of a Cooperation Agreement providing for City funding and Agency oversight of construction of a traffic signal project at the intersections of Santa Clara Street and 4th, 5th and 6th Streets was approved, and its authorization executed; Resolution No. 72084, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law for the Funding of Public Improvements in the Form of Streetscape Improvements at Santa Clara and Fifth Streets; and Authorizing Acceptance by the City Manager for any Easements Necessary for Project Completion"; and Redevelopment Agency Board Resolution Number, were adopted. Vote: 8-0-3-0. Absent: Chirco, Dando, Gregory.

- 7.2
- (a) **Approval by the City Council and Agency Board of a Cooperation Agreement providing for the City's contribution of \$823,000 and the Agency's contribution of \$1,029,000 towards the City's acquisition of 3707 Williams Road (APN: 299-32-074); for the Blackford Community Center Project.**
 - (b) **Approval by the City Council of a Purchase and Sale Agreement with OCIP, LLC, in the amount of \$1,850,000 plus related closing costs, for the acquisition of 3707 Williams Road.**
 - (c) **Adoption by the City Council of Appropriation Ordinance amendments in the Subdivision Park Trust Fund: decreasing the Reserve for Blackford High School Swimming Pool by \$83,000; and establishing the Blackford Community Center Project for \$83,000 to the Department of Parks, Recreation and Neighborhood Services.**
 - (d) **Amendment by the Redevelopment Agency Board of the Agency's FY 2003-2004 Appropriation Resolution.**
 - (e) **Approval by the City Council and the Redevelopment Agency Board of certain findings related to the Agency's payment for property that will be publicly owned.**

CEQA: Exempt, PP04-03-090. [BLACKFORD SNI]

Documents Filed: None.

Action: None. Deferred to May 4, 2004.

- 7.3**
- (a) Adoption by the City Council of appropriation ordinance amendments in the General Fund to:**
 - (1) Establish a transfer to the Redevelopment Agency in the amount of \$280,000 for the construction of community neighborhood centers at Edenvale Elementary School and Stipoe Elementary School;**
 - (2) Reduce the appropriation to the Neighborhood Revitalization Strategy program in the amount of \$280,000.**
 - (b) Adoption of a resolution by the Agency Board approving adjustments to the FY 2003-2004 Adopted Capital Budget:**
 - (1) Add \$280,000 to Other/Miscellaneous Revenue transferred from the City's PRNS NRS fund.**
 - (2) Reallocating \$45,000 from ADA Curb Ramps to the ERCA Neighborhood Center project in the Edenvale/Great Oaks project line appropriation.**
 - (3) Adding \$58,000 from the SNI Reserve to the ERCA Neighborhood Center Project**
 - (4) Adding \$80,000 to the ERCA Neighborhood Center Project appropriation in the Edenvale/Great Oaks project line.**
 - (5) Adding \$200,000 to the GONA Neighborhood Center Project in the Edenvale/Great Oaks project line appropriation.**
 - (c) Amendments by the Agency Board of the FY 2003-2004 Agency appropriations resolution.**
 - (d) Adoption of a resolution by the Agency Board:**
 - (1) Consenting to relieve the apparent low bidder, Bay Area Contractors Corporation, from its bid without forfeiture of bid security, on the grounds that bidder made an error in filling out the bid amount;**
 - (2) Awarding a construction contract to Swenson & Associates, the lowest responsive bidder, in an amount of \$371,000 and establishing a construction contingency in the amount of \$37,100, for a total construction cost not to exceed \$408,100, for the ERCA Neighborhood Center Project.**
 - (e) Approval by the City Council and Agency Board of an Amended and Restated Cooperation Agreement that provides for the City's transfer of its share of the construction costs of the ERCA Neighborhood Center Project and the GONA Neighborhood Center Project to the Agency in a lump sum.**
- CEQA: Exempt, PP03-09-277 [EDENVALE] (Deferred 4/13/04, Item 5.2) Item 7.3 was renumbered from Item 5.1.**

Documents Filed: Memorandum from Redevelopment Agency Interim Director Harry Mavrogenes, and City Manager Del Borgsdorf, dated April 27, 2004, recommending adoption of said resolutions.

7.3 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27133, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Fund for the Edenvale and Stipe Elementary Schools Community Neighborhood Centers; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Redevelopment Agency Board Resolution Numbers, were adopted; and an Amended and Restated Cooperation Agreement that provides for the City's transfer of its share of the construction costs of the ERCA Neighborhood Center Project and the GONA Neighborhood Center Project to the Agency in a lump sum, was approved. Vote: 8-0-3-0. Absent: Chirco, Dando, Gregory.

- 7.4 (a) **By the City Council approving the sale of the project site located on the southeast corner of Story and King Roads to Story and King, LLC, accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Story Road Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement as amended (DDA);**
- (b) **By the Redevelopment Agency Board approving the second amendment to the Disposition and Development Agreement with BHV San José LLC, for the redevelopment of the commercial property at the southeast corner of Story and King Roads; and authorizing the Interim Executive Director to execute ancillary documents or to take those actions necessary to close escrow.**

CEQA: Mitigated Negative Declaration [STORY ROAD] Item 7.4 was renumbered from 6.1.

Documents Filed: Memorandum from Redevelopment Agency Interim Director Harry Mavrogenes, dated April 27, 2004, recommendation adoption of said resolutions, and transmitting proposed second amendment report.

Action: Upon motion by Council Member Campos, and seconded by Council Member Cortese, and carried unanimously, and Resolution No. 72085, entitled: "A Resolution of the Council of the City of San José Approving the Sale of the Project Site Located on the Southeast Corner of Story and King Roads to Story and King, LLC; Accepting the 33433 Summary Report and Re-Use Appraisal; and Finding that the Sale of the Property Will Assist in the Elimination of Blight, is Consistent with the Implementation Plan for the Story Road Redevelopment Project Area and that the Consideration for the Property is not Less than the Fair Reuse Value for the Proposed Use, with the Covenants and Conditions and Development Costs Authorized by the Disposition and Development Agreement as Amended"; and Redevelopment Agency Board Resolution Number, were adopted. Vote: 8-0-3-0. Absent: Chirco, Dando, Gregory.

ADJOURNMENT

The Council of the City of San José, and Redevelopment Agency Board adjourned at 4:32 p.m.

RON GONZALES, MAYOR

ATTEST:

DEANNA J. SANTANA, INTERIM CITY CLERK

smd/04/27/04jtrdamin

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, APRIL 27, 2004

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room 600, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Dando, Gregory. (Excused)

Upon motion unanimously adopted, Council recessed at 9:36 a.m. to a Closed Session in Room 600, (A) to confer with Legal Counsel to discuss existing litigation pursuant to Government Code Section 54956.9; subsection (a) considering the case(s) of: (1) Afanador-Lundin, et al. v. City of San José, et al.; (2) Sharp, et al. v. City of San José, et al.; (3) Bui, et al. v. City of San José, et al.; (4) Morris, et al. v. City of San José, et al.; (B) to confer with Legal Counsel to discuss initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code in one matter pertaining to anticipated litigation; (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8, Designated Representatives: Paul Krupko for City of San José; Richard Papsin for FMC; and (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Municipal Employees Federation; (4) Confidential Employees Organization; (5) City Association of Management Personnel; (6) Association of Maintenance Supervisory Personnel; (7) Operating Engineers, Local 3; (8) International Brotherhood of Electrical Workers; (9) Association of Building and Mechanical and Electrical Inspectors.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:25 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Dando, Gregory. (Excused)

INVOCATION

The Filipino-American Veterans Stringed Instrumental Group performed the "Fil-Am Vets March". (District 4)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Chavez, seconded by Council Member LeZotte, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved. Vote: 9-0-2-0. Absent: Dando, Gregory.

CEREMONIAL ITEMS

- 1.1 Presentation of commendations to Altera Corporation, David J Powers and Associates, MCON Construction, The Steinberg Group, EnviroSystems, LGC Wireless, and the City of San José's West Valley Branch Library in recognition for being "Green Businesses".
(Environmental Services)**

Documents Filed: None.

Action: Mayor Gonzales and Council Member LeZotte presented commendations to Altera Corporation, David J. Powers and Associates, MCON Construction, The Steinburg Group, EnviroSystems, LGC Wireless, and the City of San José's West Valley Branch Library in recognition for adopting sound environmental practices in energy efficiency, water conservation, solid and hazardous waste reduction, and pollution prevention. Council Member LeZotte acknowledged the contributions of the Fire Department's Hazardous Materials Division and the Environmental Services Department who have assisted in the success of the "Green Business" program.

CONSENT CALENDAR

Upon motion by Council Member Chavez, seconded by Council Member Reed and carried unanimously, the Consent Calendar was approved, with the exception of Item 2.4 removed by Council Member Campos, and the below listed actions were taken as indicated. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 2.3 (a) **Adoption of appropriation ordinance and funding sources resolution amendments in the services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) in the amount of \$397,062:**
- (1) **Increasing the appropriation to the Department of Public Works for the Thirteenth Street Streetscape Project (PSM 295#2) by \$337,062.**
 - (2) **Establish an appropriation to the Department of Transportation for the Delmas Park Traffic Calming Project (PSM 355) in the amount of \$50,000.**
 - (3) **Establish an appropriation to the Department of Public Works for the Reed Street Park Project (PSM 358) in the amount of \$10,000.**
 - (4) **Increase the estimate for Earned Revenue by \$397,062.**
- (b) **Adoption of a resolution making certain determinations regarding the expenditure of Redevelopment Agency Funds on certain public improvements in connection with the Delmas Park Traffic Calming Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 10, 2004, and the Reed Street Park Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 23, 2004.**

CEQA: Not a Project. Council District 3. SNI: Market/Almaden, Delmas Park, and 13th Street. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated April 14, 2004, recommending adoption of said appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 27127, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for Various Public Improvements; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72069, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund"; and Resolution No. 72070, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Delmas Park Neighborhood and Market/Almaden Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 2.4 **Approval of City Manager Del D. Borgsdorf's travel to Portland, Oregon, from April 28-May 1, 2004, to participate in the National League of Cities' Sixth Biennial "Your City's Families Conference." CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Del Borgsdorf, dated April 19, 2004, requesting approval of travel to Portland, Oregon from April 28-May 1, 2004.

2.4 (Cont'd.)

Discussion: In response to an inquiry from Council Member Campos, City Manager Del Borgsdorf reported he would be providing an overview of conference events.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and carried unanimously, the City Manager's travel was approved. Vote: 9-0-2-0. Absent: Dando, Gregory.

2.5 **Adoption of a resolution authorizing the sale of a public utility easement over City-owned open space land along Guadalupe Creek for the installation and extension of a waterline to the existing Guadalupe Mines Road waterline; and delegating authority to the Director of the General Services Department to execute all documents necessary to complete transfer of the easement. CEQA: Exempt, PP04-04-120. Council District 10. (General Services)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated April 7, 2004, recommending adoption of said resolution.

Action: Resolution No. 72071, entitled: "A Resolution of the Council of the City of San José Granting an Easement to the Santa Clara Valley Water District (SCVWD) at No Cost Over a Portion of the Future Cilker Park for the Purpose of Providing Ingress and Egress to the Adjacent Percolation Pond, and Delegating Authority to the Director of General Services to Execute all Documents Necessary to Complete Transfer of the Easement", was adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

2.6 (a) **Approval of award of an annual contract for power washing services for the Department of Transportation for City-owned Parking Facilities with Pro Sweep (San José, CA), for a total amount not to exceed \$110,000, and authorize the Director of General Services to execute the service order; and** (b) **Authorization for the Director to execute one additional one-year option to renew without further Council action other than the appropriation of funds. CEQA: PP03-03-080. (General Services)**

Documents Filed: None.

Action: None. Item was dropped.

2.7 **Adoption of a resolution authorizing the City Manager to execute a new agreement between the City of San José and Community Foundation Silicon Valley (CFSV) for the administration of Community Action and Pride (CAP) Grant funds. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 7, 2004, recommending adoption of said resolution.

2.7 (Cont'd.)

Action: Resolution No. 72072, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a New Agreement Between the City of San José and Community Foundation Silicon Valley (CFSV) for the Administration of Community Action and Pride (CAP) Grant Funds", was adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

2.8 **Adoption of a resolution authorizing the City Manager to negotiate and execute a two-year agreement with Hill's Pet Food Company to receive animal food at the cost of shipping in exchange for exclusive promotional opportunities to Hill's Pet Food at the City of San José's Animal Care Center. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 14, 2004, recommending adoption of said resolution.

Action: Resolution No. 72073, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Hill's Pet Food Company to Receive Animal Food at the Cost of Shipping in Exchange for Exclusive Promotional Opportunities at the City's Animal Care Center", was adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

2.9 **Adoption of a resolution initiating proceedings and setting May 11, 2004 at 1:30 p.m. as the date for Council consideration on the reorganization of territory designated as Evergreen No. 189, which involves the annexation to the City of San José of 2.11 acres of land, located at the east side of Ruby Avenue, approximately 250 feet northerly of Murillo Avenue and the detachment of the same from Santa Clara County Central Fire Protection, and Area No. 1 (Library Services) County Service. CEQA: Mitigated Negative Declaration, PDC02-047. Council District 8. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated April 7, 2004, recommending adoption of said resolution.

Action: Resolution No. 72074, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Evergreen No. 189 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization", was adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 2.10 Approval of an agreement with San José Unified School District to convey to the City of San José an emergency vehicle access easement on a portion of the Simonds Elementary School site at 6515 Grapevine Way, together with a temporary construction easement through May 31, 2006 on another portion of the site, and authorization for the Director of Public Works to execute all documents necessary to complete the transaction. CEQA: Exempt, PP03-11-367. Council District 10. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 7, 2004, recommending approval of said agreement with San José Unified School District and authorization for the Director of Public Works.

Action: The agreement was approved. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 2.11 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement to convey an easement on and under 357 square feet of City of San José-owned property at the intersection of Brokaw Road and Martin Avenue to the City of Santa Clara to allow for placement of a pipeline to connect water systems owned by the San José Water Company and the City of Santa Clara, and authorization for the Director of Public Works to execute any additional documents necessary to complete the transfer. CEQA: Resolution Nos. 67380 and 71451, PP04-03-103. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 7, 2004, recommending adoption of said resolution.

Action: Resolution No. 72075, entitled: “A Resolution of the Council of the City of San José, (1) Authorizing the City Manager to Negotiate and Execute an Agreement with the City of Santa Clara to Convey a Water Pipeline Easement On and Under 357 Square Feet of City-Owned Property at Brokaw and Martin Avenue; and (2) Authorizing the Director of Public Works to Execute Any Additional Documents Necessary to Complete the Transfer”, was adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 2.12 Approval of the report for the proposed 2003/04-2008/09 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program and the proposed Rule 20B (In-Lieu Fee) Undergrounding Masterplan. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 7, 2004, recommending approval for the said Workplans.

Action: The Workplans were approved. Vote: 9-0-2-0. Absent: Dando, Gregory.

2.13 Review of the Annual Report regarding in lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 7, 2004, transmitting the said report.

Action: The Annual Report was accepted. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 2.14 (a) Approval of a first amendment to the agreement with the County of Santa Clara for the Bascom Avenue Median Island Landscaping project, designating the County as the lead agency for project construction; and**
(b) Adoption of the following appropriation ordinance and funding Sources resolution amendments in the Building and Structure Construction Tax Fund:
- (1) Reduce the appropriation to the Department of Transportation for the Bascom Avenue MIL: Parkmoor to San Carlos appropriation by \$601,000;**
 - (2) Increase the Ending Fund Balance by \$7,000; and**
 - (3) Reduce the estimate for Earned Revenue by \$594,000.**

CEQA: Resolution No. 65459, PP03-06-206. Council District 6. SNI: Burbank/Del Monte. (Transportation/City Manager's Office)

Documents Filed: Memorandum from Director of Transportation James Helmer, and Budget Director Larry Lisenbee, dated April 7, 2004, recommending approval of First Amendment to the said agreement with the County of Santa Clara, and adoption of said appropriation and funding sources resolution amendments.

Action: The agreement was approved; Ordinance No. 27128, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Building and Structure Construction Tax Fund for the Bascom Avenue Median Island Landscaping Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72076, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the Building and Structure Construction Tax Fund", were adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

2.15 Approval of an ordinance amending Section 11.08.070 of Chapter 11.08 and Chapter 11.44 of Title 11 of the San José Municipal Code authorizing the Director of Transportation to regulate off street parking facilities owned or leased by the City. CEQA: Exempt, File No. PP01-01-008. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated April 7, 2004, recommending approval of said ordinance.

2.15 (Cont'd.)

Action: Ordinance No. 27129, entitled: "An Ordinance of the City of San José Amending Section 11.08.070 of Title 11 of the San José Municipal Code to Authorize the Director of Transportation to Regulate Off Street Parking Facilities Owned, Leased and/or Operated by the City of San José, and To Amend Chapter 11.44 of Title 11 to Add a New Section 11.44.045 to Outline Authority of the Director of Transportation to Regulate Off Street Parking Facilities Owned, Leased and/or Operated by the City of San José", was passed for publication. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 2.16 (a) Approval of an agreement in the amount of \$40,500 with the Timothy Chen Revocable Trust for the purchase of a portion of land located at 380 North White Road, together with an immediate right of entry thereon and a three-month right of entry on the adjoining portion of property, and authorization for the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Negative Declaration, PP03-11-355. Council District 5. (Public Works)**
- (b) Report on bids and award of contract for the White Road Widening Project - Mabury Road to McKee Road to the low bidder, Redgwick Construction Company, Inc., in the amount of \$406,635, and approval of a contingency in the amount of \$21,000. CEQA: Negative Declaration, PP 03-11-335. Council District 5. (Public Works/Transportation)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated April 20, 2004, recommending approval of said agreement. (2) Memorandum from Director of Public Works Katy Allen, and Director of Transportation James Helmer, dated April 7, 2004, recommending award of said contract to the low bidder, with related contingency.

Action: The agreement was approved; the contract was awarded. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 2.17 Approval of Vice Mayor Pat Dando's travel to Washington, D.C., April 24-27, 2004, for the Silicon Valley Chamber of Commerce annual legislative advocacy visit to Washington, D.C. Funding: Silicon Valley Chamber of Commerce. (Dando) (Rules Committee referral 4/21/04)**

Documents Filed: Memorandum from Vice Mayor Dando, dated April 21, 2004, requesting approval of said travel.

Action: The travel for Vice Mayor Dando was approved. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 2.18 Approval of Mayor Gonzales' travel to Washington, D.C., April 19-21, 2004, to accept the "America's Most Livable Communities" Award on behalf of the City. (Mayor) (Rules Committee referral 4/21/04)**

2.18 (Cont'd.)

Documents Filed: Memorandum from Mayor Gonzales, dated April 15, 2004, requesting approval for said travel.

Action: The travel for Mayor Gonzales was approved. Vote: 9-0-2-0. Absent: Dando, Gregory.

**2.19 Adoption of a resolution approving the terms of a Memorandum of Agreement between the City of San José and the International Union of Operating Engineers, Local #3, authorizing the City Manager to execute the agreement for the term of April 17, 2004 through April 14, 2006. CEQA: Not a Project. (City Manager's Office)
(Rules Committee referral 4/21/04)**

Documents Filed: None.

Action: None. Deferred to May 4, 2004.

**2.20 Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund in the amount of \$46,882, for developing Community Safety Protocols. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/ City Manager's Office)
(Deferred from 4/20/04 – Item 2.7)**

Documents Filed: None.

Action: None. Deferred to May 4, 2004.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules Committee - Meeting of April 14, 2004
Vice Mayor Dando, Chair**

Documents Filed: The Rules Committee Report dated April 14, 2004, and the Partial Rules Committee Report dated April 21, 2004.

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review April 27, 2004 Draft Agenda

The Committee recommended approval of the April 27, 2004 City Council agenda.

3.2 Report of the Rules Committee - Meeting of April 14, 2004 (Cont'd.) Vice Mayor Dando, Chair

(b) City Council (Cont'd.)

(2) Add New Items to April 20, 2004 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

The Committee recommended two additions to the April 20, 2004 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager, dated April 13, 2004, transmitting reports outstanding for April 20, 2004.

The Committee noted and filed the City Manager's report stating there are three Staff reports outstanding for the April 20, 2004 Council agenda.

(c) Legislative Update

(1) State

There was no report.

(2) Federal

- (a) Federal Lobbyist Report. Attachment: Memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated April 12, 2004, recommending acceptance of the Federal Lobbyist Report.

The Committee noted and filed the Federal Lobbyist Report for January-March 2004.

(d) Meeting Schedules - There were none.

(e) The Public Record. Attachment: Memorandum from Acting City Clerk Deanna J. Santana, dated April 8, 2004, transmitting the items for Public Record for the period March 31-April 6, 2004.

The Committee noted and filed the Public Record.

(f) Appointment to Boards, Commissions and Committees

There were none.

3.2 Report of the Rules Committee - Meeting of April 14, 2004 (Cont'd.)
Vice Mayor Dando, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Written report on request for deferral for “Evergreen Specific Plan Construction Tax, Building and Structures Tax, and Residential Construction Tax Fee Suspension/Exemption Renewal”. Attachment: Memorandum from Deputy City Manager Ed Shikada, dated April 9, 2004, transmitting the report on the Evergreen Specific Plan Construction Tax, Building and Structures Tax, and Residential Construction Tax Exemption Renewal.

The Committee accepted Deputy City Manager Ed Shikada’s report on the status of discussions with the Evergreen Specific Plan property owners regarding their request for renewal of tax exemptions that expired on January 1, 2003.

- (h) Oral communications - None were presented.
- (i) Adjournment - The meeting was adjourned at 2:15 p.m.

3.2 Report of the Rules Committee (Partial) - Meeting of April 21, 2004
Vice Mayor Dando, Chair

- (c) Legislative Update
 - (1) State
 - (a) AB 2741 (Salinas, Wolk) – Metropolitan Transportation Commission: governing board

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the Rules/Partial Rules Committee Report and the actions of April 14, 2004, and April 21, 2004, were accepted. Vote: 9-0-2-0. Absent: Dando, Gregory.

3.3 Report of the Making Government Work Better Committee – April 14, 2004
Council Member Campos, Chair

Documents Filed: The Making Government Work Better Committee Report dated April 14, 2004.

- (a) Public Works Real Estate Division Audit

Deferred to June 2004.

3.3 Report of the Making Government Work Better Committee – April 14, 2004 Council Member Campos, Chair (Cont'd.)

- (b) Concentrated Code Enforcement Audit. Attachment: An Audit of the Concentrated Code Enforcement Program, from the Office of the City Auditor, dated April 2004.

The Committee accepted the Staff report with the request to bring back to the Committee in September, a follow up report and that it be added to the Work Plan.

- (c) Airport Concessions Contracts Audit. Attachment: Memorandum from City Auditor Gerald Silva, dated April 5, 2004, transmitting the Airport Concessions Contracts.

The Committee accepted the Staff report with the request to bring back to the Committee in June, a follow up report.

- (d) Report on CSA Performance Measurements. Attachment: Memorandum from Brooke Myhre, Manager QUEST Partnership, dated April 5, 2004, recommending acceptance of the Staff Report on CSA Performance Measurements.

The Committee accepted the Staff report.

- (e) Follow-up Report on the Effectiveness of Current City and RDA Community Outreach

Deferred to May 2004.

- (f) Special Event Permitting. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 30, 2004, recommending acceptance of the Special Events/Festivals Permitting Status Report.

The Committee accepted the Staff report.

- (g) Neighborhood Development Center regarding CAP Grant Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 5, 2004, recommending acceptance of the CAP Grant Update.

The Committee accepted the Staff report.

- (h) Call Center Information and Referral Services

Deferred to 2004-2005 Work Plan.

**3.3 Report of the Making Government Work Better Committee – April 14, 2004
Council Member Campos, Chair (Cont'd.)**

- (i) School Crossing Guard Audit

Deferred to May 2004.

- (j) Single Audit Report

Deferred from February. See Item (k).

- (k) Management Letter (Deferred from February). Attachment: Memorandum from Director of Finance Scott Johnson, dated April 5, 2004, transmitting and recommending acceptance of Single Audit Report and Internal Controls for Fiscal Year Ended June 30, 2003.

The Committee accepted the Staff report.

- (l) Semi-Annual Audit Recommendations. Attachment: The Semi-Annual Audit Recommendations, from the Office of the City Auditor, for the six months ending December 31, 2003.

The Committee accepted the Staff report with the direction to cross reference Appendix B, HIT Report on the April 27, 2004 City Council agenda. See Item 3.7 for Council Action Taken.

- (m) Oral petitions - There were none.

- (n) Adjournment - The meeting was adjourned at 5:00 p.m.

Action: Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, the Making Government Work Better Committee Report, and the actions of April 14, 2004, were accepted. Vote: 9-0-2-0. Absent: Dando, Gregory.

3.4 Direction to the City Attorney to bring for approval an ordinance amending Chapter 4.76 of the San José Municipal Code implementing revisions to the Business Tax related to increasing exemptions, establishing a grace period for new businesses, increasing the amount of Business Tax the Director of Finance may compromise, and establishing a Director of Finance authority to compromise Business Tax penalties and interest. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated April 15, 2004, recommending said direction to City Attorney and Director of Finance.

3.4 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, the City Attorney was authorized to return with an ordinance for approval amending Chapter 4.76 of the San José Municipal Code implementing revisions to the Business Tax related to increasing exemptions, establishing a grace period for new businesses, and the Director of Finance was authorized to compromise Business Tax penalties and interest. Vote: 9-0-2-0. Absent: Dando, Gregory.

3.5 **Approval of various actions, on behalf of Daughters of Charity Health System, regarding the O'Connor Hospital, located at 2105 Forest Avenue, San José, CA 95128:**

- (a) **Hold a TEFRA Hearing for the issuance of \$550,000,000 of tax-exempt 501(c)(3) revenue bonds by the California Statewide Community Development Authority ("CSCDA"); and**
- (b) **Adoption of a resolution approving the issuance of Tax-Exempt Fixed Rate Revenue Bonds, Series 2004 by the California Statewide Community Development Authority in an aggregate principal amount not to exceed \$550,000,000 to be used to:**
 - (1) **Refund existing \$450,000,000 California Statewide Communities Development Authority Series 2001 Fixed Rate Revenue Bonds (the "2001 Bonds");**
 - (2) **Equip certain hospitals and related facilities; and**
 - (3) **Pay certain expenses incurred in connection with the issuance of the Bonds.**

CEQA: Not a Project. Council District 6. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated April 8, 2004, recommending holding a TEFRA Hearing for issuance of said bond, and adoption of said resolution.

Discussion: Mayor Gonzales opened the Public Hearing, and there was no discussion on the floor. Mayor Gonzales asked for written comments on the proposed taxes and bonds or on the project received by the City Clerk's Office prior to this hearing. Acting City Clerk Deanna Santana replied no written comments were received. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72077, entitled: "A Resolution of the Council of the City of San José Approving a Tax-Exempt Bond Financing to be Issued by the California Statewide Community Development Authority to Benefit Daughters of Charity Health System and Certain Affiliates", was adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 3.6 (a) Adoption of resolution authorizing the City Manager to enter into exclusive negotiations for sixty days for the purchase, installation, and integration of an Integrated Utility Billing, Customer Service and Performance Management System (CUSP) with BearingPoint/PeopleSoft, with the option to commence negotiations with Indus in the event business terms are not reached with BearingPoint/PeopleSoft.
- (b) Direction for staff to proceed with the necessary actions to expand the City's commercial paper program including the preparation of the necessary amendments to the Trust Indenture, certain financing documents, and preparation of a new Offering Memorandum for the City of San José Financing Authority Tax-Exempt Lease Revenue Commercial Paper Notes (the "CP Notes") for City Council and City of San José Financing Authority Board approval by August 2004.
- (c) Direction for staff to return to Council by August 2004 for Council's approval of a final agreement between the City and the recommended CUSP vendor solution and the related budget appropriations.

CEQA: Not a Project. (Finance/Environmental Services/Information Technology)

Documents Filed: None.

Action: None. Deferred to May 4, 2004.

- 3.7 **Acceptance of the Semi-Annual Audit Recommendations, Appendix B: An Audit of the Fire Department – Hazardous Materials Storage Permit Fees. (City Auditor)**
[Making Government Work Better Committee referral 4/14/04 - Item 3.3(l)]

Documents Filed: Memorandum from Senior Executive Analyst Nadine Nader, dated April 20, 2004, transmitting said report.

Action: Upon motion by Council Member Campos, seconded by Council Member Cortese, and carried unanimously, the Semi-Annual Audit Recommendations, Appendix B: An Audit of the Fire Department-Hazardous Materials Storage Permit Fees Report, was accepted. Vote: 9-0-2-0. Absent: Dando, Gregory.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.3 **PUBLIC HEARING and adoption of a resolution designating the Nevills-Campisi House, located on a 0.125 gross acre site at the east side of South 6th Street, approximately 150 feet northerly of East San Fernando Street (84 S. Sixth Street), as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature, HL03-149. CEQA: Exempt, HL03-149. Council District 3. SNI: 13th Street. (Planning, Building & Code Enforcement)**

Documents Filed: (1) Historic Landmarks Commission Secretary Stephen Haase, dated April 7, 2004, recommending adoption of said resolution. (2) Proof of Publication of Notice of Public Hearing, executed on April 27, 2004, submitted by the City Clerk. (3) Affidavits of Routing, and Mailing, both executed on April 30, 2004, and distributed by the City Clerk.

Action: Mayor Gonzales opened the Public Hearing and there was no discussion from the floor, and the Public Hearing was closed. Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Resolution No. 72078, entitled: "A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Nevills-Campisi House, Located at 84 South Sixth Street, as a Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature", was adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

- 4.4 (a) Adoption of a resolution authorizing the Director of Housing to accept housing program grants from HCD and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following grants:**
- (1) A \$1,000,000 CalHome Program grant to fund the rehabilitation of homes owned by low-income residents;**
 - (2) A \$500,000 Exterior Accessibility Grants for Renters (EAGR) program grant to fund exterior accessibility improvements for lower-income tenants living in multi-unit or single-family rental housing units; and**
 - (3) A \$1,500,000 Local Housing Trust Fund Program grant for the San José Housing Trust Fund (SHTF) to fund loans for the construction or rehabilitation of rental housing developments affordable to low-income households.**
- (b) Approval of the following appropriation ordinance and funding sources resolution amendments in the Multi-Source Housing Fund:**
- (1) Increasing the CalHome Program appropriation by \$1,000,000;**
 - (2) Establishing a new CalHome (EAGR) appropriation in the amount of \$500,000; and**
 - (3) Increasing the estimate for Grant Revenue in the amount of \$1,500,000.**
- (c) Approval of the following appropriation ordinance and funding sources resolution amendments in the Housing Trust Fund:**
- (1) Increasing the estimate for Grant Revenue Proposition 46 in the amount of \$1,500,000; and**
 - (2) Establishing a Proposition 46 Expenditure appropriation in the amount of \$1,500,000.**

CEQA: Not a Project. (Housing/City Manager's Office)

4.4 (Cont'd.)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, and Budget Director Larry Lisenbee, dated April 7, 2004, recommending adoption of said resolutions, appropriation ordinance and funding sources resolution amendments in the Multi-Source Housing Fund, and the Housing Trust Fund.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72079, entitled: "A Resolution of the Council of the City of San José To Accept Housing Program Grants from HCD and Authorizing the Director of Housing to Negotiate and Execute the Grant Agreements and Any Amendments or Other Documents Necessary to Implement the Programs Funded by the Following Grants; (A) A \$1,000,000 CALHOME Program Grant to Fund the Rehabilitation of Homes Owned by Low-Income Residents (B) A \$500,000 Exterior Accessibility Grants for Renters Program Grant to Fund Exterior Accessibility Improvements for Lower-Income Tenants Living in Multi-Unit or Single-Family Rental Housing Units; and (C) A \$1,500,000 Local Housing Trust Fund Program Grant for the San José Housing Trust Fund to Fund Loans for the Construction or Rehabilitation of Rental Housing Developments Affordable to Low-Income Households"; Ordinance No. 27130, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Multi-Source Housing Fund for the CALHOME (EAGR) Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72080, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the Multi-Source Housing Fund"; Ordinance No. 27131, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Housing Trust Fund for the Grant Revenue Proposition 46 Expenditures; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72081, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the Housing Trust Fund", were adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

4.5 Presentation on the status of the New Civic Center. (City Manager's Office)

Documents Filed: (1) Memorandum from City Manager Del Borgsdorf, and Deputy City Manager Terry Roberts, dated April 20, 2004, transmitting the New San José Civic Center and Off-Site Parking Garage Project Updated. (2) Staff presentation dated April 27, 2004.

Discussion: Deputy City Manager Terry Roberts presented an update on the New Civic Center and Off-Site Parking Garage.

Deputy City Manager Roberts responded to Council questions and noted that steel prices have increased. He added that the ornamental contract is currently out for bid, with bids due back within 30 days, and reported that there are miscellaneous items that may affect costs, including underground steel piping and steel studwork.

4.5 (Cont'd.)

Deputy City Manager Roberts noted that Staff is currently working on several options for the employee-parking garage, and reported there is a \$9.5 million contingency that is unexpended.

Mayor Gonzales called for public testimony. Alex Marthews, Preservation Action Council of San José, and Ross Signorino spoke in favor of the issue. There was no Council action required on this issue.

4.6 Approval of an ordinance amending Section 4.46.050 of Chapter 4.46 of Title 4 and Section 4.47.040 of Chapter 4.47 of the San José Municipal Code to:

- (a) Clarify the industrial use designation for buildings or structures subject to collection of Building and Structure Construction Taxes;**
- (b) Add certain industrial uses to the expanded list for the purpose of collecting Building and Structure Construction Taxes and establish a sunset provision for the expanded list of industrial uses;**
- (c) Clarify the procedures to collect taxes for building permits that are issued separately for building shell and the first tenant improvements.**

CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)

(Deferred from 3/30/04 – Item 4.5 and 4/6/04 – Item 4.7)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, and Director of Economic Development Paul Krutko, dated April 21, 2004, recommending approval of said ordinance.

Discussion: Council Member Reed moved approval of the Staff recommendation. Council Member Chavez seconded the motion.

Council Member Cortese referring to the Zoning Code Modifications, asked how the 9 and 18 hole golf courses were included on the list of industrial uses. Director of Planning, Building and Code Enforcement Stephen Haase replied that the use was added by a previous City Council, and the decision predates Proposition 218. He stated that Staff recommends the use remain on the list, as it would require a vote to impose the 1996 tax on that type of use. City Attorney Richard Doyle provided legal guidance in support of the Staff recommendation.

Director Haase responded to additions from Council Member Cortese referring to the Ordinance's incentive for new development, emphasized the benefits the City would reap and agreed to report back to Council over the course of the year as part of the budget process on the results of that incentive. Council Member Cortese proposed that Staff track how the program works and report back.

4.6 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 27132, entitled: "An Ordinance of the City of San José Amending Section 4.47.050 of Chapter 4.47 and Section 4.47.040 of Chapter 4.47 of Title 4 of the San José Municipal Code to Clarify the Term "Industrial Use" for Purposes of Determining the Rate of Tax", was passed for publication, with Staff requested to track how the amendments to the Building and Structures Tax Ordinance affect the development review process, and to report back each year during the budget process. Vote: 9-0-2-0. Absent: Dando, Gregory.

RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – April 8, 2004 Council Member Yeager, Chair

- (a) Civic Center Childcare Update
 - (b) Update on Schools/City Collaborative Joint Use Agreements – Discussion on how we can better work with schools
 - (c) Discussion on Gang Prevention and Intervention Programs
 - (d) San José After School Implementation Update and Discussion of Priorities for Youth Programs
 - (e) Oral petitions
 - (f) Adjournment
- (Deferred from 4/20/04 – Item 5.1)

Documents Filed: None.

Action: None. Deferred to May 4, 2004.

5.2 Report on bids and take appropriate action based on the evaluation of bids for the Almaden Community Center and Branch Library Project, and approval of a ten percent contingency. CEQA: Mitigated Negative Declaration, PP02-10-309. Council District 10. (Public Works/Library/Parks, Recreation & Neighborhood Services)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Library Director Jane Light, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 7, 2004, recommending approval of related contingency, and appropriate action be taken based on the evaluation of bids.

Action: None. Council action was taken previously, on April 20, 2004.

TRANSPORTATION SERVICES

6.2 Adoption of a resolution:

- (a) Determining that public use and necessity require the acquisition of:**
 - (1) Fee title to a portion of property located at 1212 Oakland Road, owned by R.C.S. Management and Investment Corporation, a California corporation;**
 - (2) Six-month temporary construction easement on an adjoining portion of the property; and**
 - (3) Two sound wall easements at the northerly and southerly portions of the property.**
- (b) Finding that:**
 - (1) The property to be taken is necessary for the completion of the Oakland Road street widening project;**
 - (2) The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;**
 - (3) City staff established an amount of just compensation not less than the approved appraisal of the fair market value,**
 - (4) City staff made an offer to the owners for the full appraised amount; and**
 - (5) The proposed taking and use are authorized by law;**
- (c) Directing the City Attorney to file an eminent domain action to acquire these property interests.**

CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works/Transportation)

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Transportation James Helmer, dated April 7, 2004, recommending adoption of said resolution.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72082, entitled: "A Resolution of Public Use and Necessity of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: Oakland Road Street Widening Project; Authorizing and Empowering the City Attorney to Bring Action in Eminent Domain to Acquire Certain Property Interests for Said Project and to Apply for an Order of Possession Before Judgment and to Prosecute Said Action to Final Judgment; and Authorizing and Empowering the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property Interests from the Funds Lawfully Available Therefore", was adopted. Vote: 9-0-2-0. Absent: Dando, Gregory.

AVIATION SERVICES

- 8.1 Report on bids and award of contract for the Norman Y. Mineta San José International Airport - General Engineering Contract 03-04 to the low bidder, O’Grady Paving, in the amount of \$1,300,000. CEQA: Resolution Nos. 67380, and 71454, PP 04-01-010. (Public Works/Airport)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Aviation Ralph Tonseth, dated April 7, 2004, recommending award of said contract to the low bidder.

Action: Upon motion by Council Member Chavez, seconded by Council Member Reed, the award of the contract to the low bidder, O’Grady Paving, for Norman Y. Mineta San José International Airport was approved and its execution authorized. Vote: 9-0-2-0. Absent: Dando, Gregory.

PUBLIC SAFETY SERVICES

- 9.1 Approval of specified policies and procedures related to the review of officer-involved shootings resulting in injury or death to a person and fatal incidents involving San José Police Officers. CEQA: Not a Project (Independent Police Auditor/ Police)**

Documents Filed: (1) Memorandum from Independent Police Auditor Teresa Guerrero-Daley, and Police Chief Robert Davis, dated April 20, 2004, recommending approval of said specified policies and procedures. (2) Vietnamese version of the approved six recommendations dated April 27, 2004.

Discussion: Council Member Williams moved approval of the Staff recommendation. Council Member Reed seconded the motion.

In response to an inquiry from Council Member Chavez about the high-speed chased conducted by outside State and Federal agencies, Police Chief Davis replied that Staff have met with State Agencies to share concerns relative to conducting high-speed chases within the jurisdictions of San José and in addition, the County Chiefs are working on this proposed policies.

Mayor Gonzales called for public testimony. Gary Wood, Coalition for Accountability of Justice, Richard Konda, Asian Law Alliance, The-Vu Nguyen, Vietnamese-American Community Action Team, and Samina Faheen Sundas, American Muslim Voice spoke in favor of the issue.

Individual Council comments followed expressing support to Police Chief Robert Davis and Independent Police Auditor Teresa Guerrero-Dailey for bringing forward the policies.

9.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and the recommendations in the memorandum from Independent Police Auditor Teresa Guerrero-Daley, and Police Chief Robert Davis, dated April 20, 2004 were approved: (1) The Independent Police Auditor (IPA) will be notified immediately after an office-involved shooting by the Internal Affairs Commander; (2) The IPA may respond to the scene of the officer-involved shooting and contact the Internal Affairs Commander at the outer perimeter of the crime scene; (3) The IPA and Internal Affairs Commander will then be briefed as to the details of the incident by on-scene personnel; (4) The IPA will be provided with a copy of the Internal Affairs administrative investigation document of the officer-involved shooting for auditing purposes as soon as practical *after* the criminal case has been concluded, but prior to the closing of the administrative investigation; (5) The IPA will coordinate outreach efforts immediately after an officer-involved shooting incident and the SJPd will ensure that it participates in these forums; (6) The City Manager or the City Attorney as the case may be, will cooperate with the IPA to utilize their respective contracting authority to assist the IPA in obtaining expert consultants for purposes of training, and not for the purposes of reviewing any specific complaint. In the event of a disagreement, or the need for services, which cost in excess of \$100,000, the request may be referred to the City Council for decision; This agreement will be evaluated after one year to determine if the PA's needs are being adequately addressed. Vote: 9-0-2-0. Absent: Dando, Gregory.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:50 p.m. to consider Items 10.1 and 10.2 in a Joint Session.

10.2 PUBLIC HEARING and adoption of resolutions:

- (a) **Approving the transfer of Redevelopment Agency-owned property, located at 235 East Santa Clara Street (Property), pursuant to a Cooperation Agreement between the City and the Agency to the City.**
- (b) **Approving the sale from the City to the First United Methodist Church Tower Properties, L. P., (FUMCTP), for \$5,200,000 for the residential tower and an easement for 104 parking spaces in the adjoining parking garage, and to First United Methodist Church Car Barn, (FUMCCB), a California nonprofit corporation, for \$50,000 for the garage encumbered by the easement (Sponsors).**
- (c) **Approving a loan to First United Methodist Church Tower Properties, L.P., for the acquisition/rehabilitation of the residential building of up to \$2,225,000.**

(Item continued on the next page)

10.2 (Cont'd.)

- (d) **Accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the Property will provide housing for very low- and low-income persons and is consistent with the Implementation Plans for the San José Merged Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA).**
- (e) **Approving the DDA among the City of San José, the Redevelopment Agency, and the Sponsors for the acquisition and rehabilitation of the Vintage Tower Apartments, a 59-unit mid-rise apartment building located at 235 East Santa Clara Street.**
- (f) **Authorizing the City Manager and the Executive Director to negotiate and execute amendments to the DDA as may be reasonably required by the Developer's lender, and as necessary to conclude this transaction consistent with the authority granted herein.**
- (g) **Authorizing the City Manager and the Redevelopment Agency Executive Director to execute such documents as necessary to convey the Property to the Sponsor once the conditions of conveyance have been met.**

CEQA: Exempt, PP03-03-090. Council District 3. (City Manager's Office/ Redevelopment Agency)

Documents Filed: (1) Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated April 7, 2004, recommending conducting a public hearing and adoption of said resolutions. (2) Proofs of Publication of Notices of Public Hearing, executed on April 9, 2004, and April 16, 2004, submitted by the City Clerk.

Discussion: In response to an inquiry by Council Member Chavez about merchant relocation, Director of Housing Leslye Corsiglia reported that an outside relocation consultant has been working closely with the three retail tenants in the building. She added the tenants have been offered a generous plan for relocation costs with rents set at the current rate for 5 years. Council Member Chavez requested more information in order to understand the work that has been accomplished to this point.

Mayor Gonzales opened the Public Hearing. Jim Crawford, First United Methodist Church, spoke in favor of the issue. Council Member Chavez requested an update on the work Mr. Crawford has been conducting with the businesses at the base of the building. Mr. Crawford replied that all the commercial tenants have been invited to stay with rent remaining the same for five years, and a financial bridge will be provided during the renovation. Mayor Gonzales closed the Public Hearing.

Council Member Chavez requested that as the project moves forward that both Staffs continue to work with Mr. Crawford on outstanding problems, including due diligence with worked relating to Vintage Towers.

10.2 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and carried unanimously, Resolution No. 72083, entitled: "A Resolution of the Council of the City of San José Approving (1) The Transfer of the Property Located at 235 East Santa Clara Street from the Redevelopment Agency to the City; (2) The Disposition and Development Agreement for the Sale and Conveyance of a Portion of the Property to First United Method Church Tower Properties, L.P., ("Tower Properties") for \$5,200,000 and a Portion of the Property to First United Methodist Church Car Barn, Inc. ("Car Barn") for \$50,000; (3) Approving a Loan in the Principal Amount of \$2,225,000 to Tower Properties for the Acquisition and Rehabilitation of the Apartment Building on the Property; (4) Accepting the 33433 Summary Report and Re-Use Appraisal; (5) Authorizing the City Manager to Execute the City Documents and Any Amendments Reasonably Necessary to Effectuate the Transfer and Rehabilitation of the Property"; and Redevelopment Agency Resolution No. 5491, were adopted, with Staffs directed to continue to work with Jim Crawford, First United Methodist Church and Developer, on outstanding issues as the project moves forward, including due diligence of related work around Vintage Towers. Vote: 8-0-3-0. Absent: Chirco, Dando, Gregory.

10.1 **Presentation on the development and implementation of One-Voice Service Delivery Pilot Projects. (City Manager's Office/Redevelopment Agency)** **(Deferred from 4/13/04 – Item 10.1)**

Documents Filed: (1) Memorandum from Director Employee Services Mark Danaj, dated April 14, 2004, transmitting the One Voice Project Summary report. (2) Staff slide presentation of the Once Voice Project, dated April 27, 2004.

Discussion: City Manager Del Borgsdorf introduced the team. Director Employee Services Mark Danaj presented an overview of the One Voice Service Delivery. Office of Economic Development Manager of Corp Outreach Nanci Klein, and Kelly Kline, Redevelopment Agency summarized Retail Development. Director of Public Works Katy Allen provided an outline of the One Start Processing Project. Assistant Director of Economic Development Kim Walesh and Assistant Executive Director Sharon Landers presented the Access San José Development Team and Business Appreciation Initiative. Deputy City Manager Jim Holgersson, and Deputy Executive Director Redevelopment Agency John Weis outlined the Strong Neighborhoods Development Team. Peter Penfield, Internet Business Solutions Group, a not-for-profit consulting arm of Cisco Systems provided an overview of the Cross Departmental Collaboration. Extensive Council questions ensued.

Mayor Gonzales called for public testimony. Ross Signorino spoke in favor of the issue. There was no Council action required on this issue.

The Redevelopment Agency Board portion of the Meeting was adjourned at 4:19 p.m.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9556	Willowbrae Avenue	6	DKB Homes	21 units	SFD	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

None.

OPEN FORUM

- (1) Mark Trout spoke of societal issues.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Luis Miguel Jiminez, student at Fair Middle School.

The Council of the City of San José was adjourned at 4:22 p.m.

RON GONZALES, MAYOR

ATTEST:

DEANNA J. SANTANA, INTERIM CITY CLERK

smd/04/27/04min